

TITLE 28

United States Code

Congressional Service



Pages 1487-2174

80th Congress — 2d Session

Epochal Legislation

New

**Title 28 — United States Code
Judiciary and Judicial Procedure**

Approved June 25, 1948

Effective September 1, 1948

WEST PUBLISHING CO.

EDWARD THOMPSON CO.



NEW TITLE 28—UNITED STATES CODE JUDICIARY AND JUDICIAL PROCEDURE

Not since 1911 has Congress passed a bill of such epochal importance to the bench and bar as H.R. 3214 revising laws relating to the Federal judiciary and judicial procedure.

This revision of Title 28 of the United States Code ranks in importance with the Judiciary Act of 1789, the Revised Statutes of 1873-74 and the Judicial Code of 1911.

As a special service to those who administer justice from the bench and at the bar, this pamphlet includes the most authoritative and complete legislative history yet published in connection with a Federal law. Special attention is directed to the table of contents in which is enumerated historical and interpretive aids to a study of the new Title 28 as set out in this pamphlet.

OUTLINE OF HISTORY

Early in 1944 work on the revision of Title 28 was commenced under the direction of the House Committee on Revision of the Laws. The work was done by the West Publishing Company, of St. Paul, Minnesota, and the Edward Thompson Company, of Brooklyn, New York, compilers of the United States Code. The editorial staffs of these two companies were augmented by expert revisers and consultants, and assisted by an Advisory Committee of distinguished judges and lawyers.

A copyrighted Feature of the U. S. Code Congressional Service

NEW TITLE 28—UNITED STATES CODE

The Advisory Committee held its first meeting at Brooklyn, New York, on February 5, 1945, and reviewed the work then completed which comprised Part I of the proposed title.

On May 28, 1945, the Advisory Committee met at Hershey, Pennsylvania, and reviewed the work then completed which comprised Parts I-IV of the proposed title.

Congressman Keogh, Chairman of the House Committee on Revision of the Laws, introduced H. R. 3498 in the seventy-ninth Congress, on June 19, 1945, incorporating Part I of revised Title 28. The bill was referred to such Committee, but no Committee action was taken.

On December 3, 1945 the Advisory Committee met at Washington, D. C., and reviewed the completed revision.

The fourth and final meeting of the Advisory Committee was held at Washington, D. C., on April 1-3, 1946, at which time further recommendations and proposed changes were reviewed.

✓ On July 24, 1946, Congressman Keogh reported an original bill, H. R. 7124, in the seventy-ninth Congress, containing the completed revision, which was committed to the Committee of the Whole House on the State of the Union. House Report No. 2646, July 24, 1946, to accompany the bill, was printed and issued by the House Committee on Revision of the Laws, but the seventy-ninth Congress ended before any further action was taken.

The late Congressman Robsion, Chairman of Subcommittee No. 1 of the House Judiciary Committee, introduced H. R. 2055 in the Eightieth Congress, a successor bill to H. R. 7124, and incorporating laws enacted subsequently to the introduction of H. R. 7124 in the prior Congress. The bill was referred to the House Judiciary Committee which, in the reorganization of Congressional committees, had absorbed the previous House Committee on Revision of the Laws.

Subcommittee No. 1 of the House Judiciary Committee held a hearing on H. R. 2055, on March 7, 1947.

On April 22, 1947, the House Judiciary Committee reported favorably on H. R. 2055, but recommended a substitute bill, H. R. 3214, incorporating additional changes.

✓ Congressman Robsion introduced H. R. 3214 in the Eightieth Congress on April 25, 1947, which was referred to the House Judiciary Committee, and committed to the Committee of the Whole House on the State of the Union. House Report No. 308, April 25, 1947, to accompany H. R. 3214, 80th Congress, was printed and issued by the House Judiciary Committee.

H. R. 3214, with amendments, was passed in the House on July 7, 1947, and was referred to the Senate Judiciary Committee.

JUDICIARY AND JUDICIAL PROCEDURE

A subcommittee of the Senate Judiciary Committee, with Senator Donnell of Missouri as Chairman, held hearings on H. R. 3214, on April 22-24, 1948.

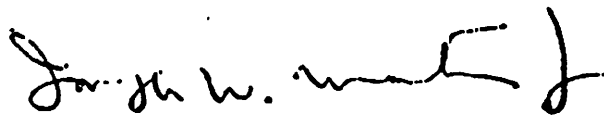
On June 9, 1948, the Senate Judiciary Committee reported out H. R. 3214, with amendments, accompanied by Senate Report No. 1559.

The bill, with amendments, was passed by the Senate on June 12, 1948, followed by a motion to reconsider. The motion to reconsider was withdrawn on June 15, 1948, and on June 16, 1948, the House concurred in the Senate amendments. As finally passed, the bill incorporated all laws affecting Title 28 up to and including January 5, 1948.

EFFECTIVE DATE

This new Title 28, United States Code, becomes effective on September 1, 1948.

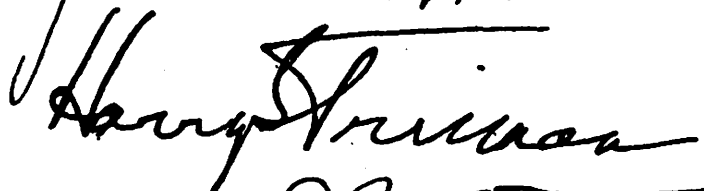
The following are facsimile signatures appended to
H.R. 3214 — Title 28, United States Code,
Judiciary and Judicial Procedure.



Speaker of the House of Representatives.



President of the Senate pro tempore.

Approved
June 25, 1948

12:25 P.M. E.D.T.

United States

United States Code
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80th Congress—Second Session

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Acknowledgment

The Publishers hereby wish to record grateful appreciation to the Bench and Bar, as well as to the various Bar Associations and Law Schools, for valuable and practical assistance and cooperation throughout the preparation of this historic new Title of the United States Code, relating to the Judiciary and Judicial Procedure.

The Congress
Laws of 80th Congress
Second Session

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Title 28, United States Code

Judiciary and Judicial

Procedure

CHAPTER 646—PUBLIC LAW 773

AN ACT

To revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Title 28 of the United States Code, entitled "Judicial Code and Judiciary" is hereby revised, codified, and enacted into law, and may be cited as "Title 28, United States Code, section —", as follows:

TITLE 28

JUDICIARY AND JUDICIAL PROCEDURE

Part	Sec.
I. ORGANIZATION OF COURTS - - - - -	1
II. UNITED STATES ATTORNEYS AND MARSHALS - - - - -	501
III. COURT OFFICERS AND EMPLOYEES - - - - -	601
IV. JURISDICTION AND VENUE - - - - -	1251
V. PROCEDURE - - - - -	1651
VI. PARTICULAR PROCEEDINGS - - - - -	2201

PART I—ORGANIZATION OF COURTS

Chapter	Sec.
1. Supreme Court - - - - -	1
3. Courts of appeals - - - - -	41
5. District courts - - - - -	81
7. Court of Claims - - - - -	171
9. Court of Customs and Patent Appeals - - - - -	211
11. Customs Court - - - - -	251
13. Assignment of Judges to other courts - - - - -	291
15. Conferences and councils of Judges - - - - -	331
17. Resignation and retirement of Judges - - - - -	371
19. Distribution of reports and digests - - - - -	411
21. General provisions applicable to courts and Judges - - - - -	451

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Justice, the Solicitor General, the General Counsel for the Department of the Treasury, the Solicitor of the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission.

He may also procure and distribute three complete sets to the Secretary of the Senate for use of the Senate and to the Clerk of the House of Representatives for use of the House.

The Director of the Administrative Office of the United States Courts may procure and distribute a complete set of such publications to each judge of the United States and to the Court of Claims, Court of Customs and Patent Appeals, Customs Court, Tax Court, and each place where a court of appeals or district court is regularly held.

Whenever any such court, office, or officer has a partial set of any such reports or digests already purchased or owned by the United States, the Attorney General or the Director, as the case may be, shall distribute only sufficient volumes to make a complete set thereof.

Distribution under this section shall not be made to any place where court is held in a building not owned by the United States, unless the volumes are committed to the custody of a United States officer there.

§ 414. Transmittal of books to successors

All government publications and law books furnished to justices and judges of the United States and of the Territorial Courts, United States attorneys, clerks of courts, and other officers of the United States shall be transmitted to their successors in office. All permanent or bound books and publications furnished under this chapter except those books furnished to the Library of Congress for international exchange shall remain the property of the United States and shall be marked plainly, "The Property of the United States".

§ 415. Court of Claims decisions

At the end of every term of the Court of Claims the clerk thereof shall distribute one copy of each decision of such court to: (1) The heads of departments, (2) General Counsel for Treasury Department, (3) Comptroller General of the United States, (4) Commissioner of the General Land Office, (5) Commissioner of Indian Affairs, (6) Chiefs of bureaus, and (7) Officers charged with adjustment of claims against the United States.

CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

Sec.

451. Definitions.

452. Courts always open; powers unrestricted by terms.

453. Oath of justices and judges.

Sec.

- 454. Practice of law by justices and judges.
- 455. Interest of justice or judge.
- 456. Traveling expenses of justices and judges.
- 457. Records; obsolete papers.
- 458. Relative of justice or judge ineligible to appointment.
- 459. Administration of oaths and acknowledgments.
- 460. Application to Alaska, Canal Zone and Virgin Islands.

§ 451. Definitions

As used in this title:

The term "court of the United States" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the district courts of the United States for the districts of Hawaii and Puerto Rico, the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court and any court created by Act of Congress the judges of which are entitled to hold office during good behavior.

The terms "district court" and "district court of the United States" mean the courts constituted by chapter 5 of this title.

The term "judge of the United States" includes judges of the courts of appeals, district courts, Court of Claims, Court of Customs and Patent Appeals, Customs Court and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

The term "justice of the United States" includes the Chief Justice of the United States and the associate justices of the Supreme Court.

The term "district" and "judicial district" mean the districts enumerated in Chapter 5 of this title.

The term "department" means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term "agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

§ 452. Courts always open; powers unrestricted by terms

All courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders.

The continued existence or expiration of a term of court in no way affects the power of the court to do any act or take any proceeding.

TITLE 28, UNITED STATES CODE

Section 415—Section Revised

Based on title 28, U.S.C., 1940 ed., § 248 (Mar. 3, 1911, ch. 231, § 143, 36 Stat. 1136; June 10, 1921, ch. 18, §§ 301, 302, 310, 42 Stat. 23, 25; May 10, 1934, ch. 277, § 512 (b), 48 Stat. 759).

The remaining provisions of section 248 of title 28, U.S.C., 1940 ed., are incorporated in section 791 of this title.

Changes were made in phraseology.

CHAPTER 23.¹⁴ GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

Sec.

- 451. Definitions.
- 452. Courts always open; powers unrestricted by terms.
- 453. Oath of justices and judges.
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Preceding Section 451 ¹⁵

Inasmuch as existing provisions relating to the United States Tax Court have been transferred to and made a part of this revised title, this chapter, containing general provisions applicable to courts and judges, is also applicable to the Tax Court and the judges thereof.

Section 451—New Section

This section was inserted to make possible a greater simplification in consolidation of the provisions incorporated in this title.

The definitions of agency and department conform with such definitions in section 6 of revised title 18, U.S.C. (H. R. 3190, 80th Cong.).

Section 452—Section Revised

Based on title 28 U.S.C., 1940 ed., §§ 13 and 302 (Mar. 3, 1911, ch. 231, §§ 9, 189, 36 Stat. 1088, 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Sections 13 and 302 of title 28, U.S.C., 1940 ed., related only to district courts and the Court of Customs and Patents Appeals, and this section has been written to cover all other courts of the United States.

¹⁴ This chapter was renumbered "21", but without change in section numbers, by Senate amendment. See Senate Report No. 1559.

¹⁵ Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See Senate Report No. 1559.

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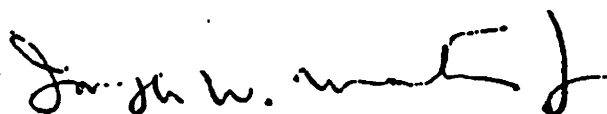
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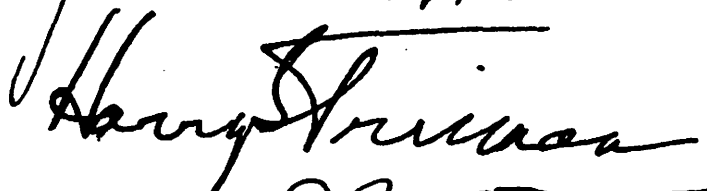
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21. General provisions applicable to courts and Judges	451

CHAPTER 5—DISTRICT COURTS

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81. Alabama.
82. Arizona.
83. Arkansas.
84. California.
85. Colorado.
86. Connecticut.
87. Delaware.
88. District of Columbia.
89. Florida.
90. Georgia.
91. Hawaii.
92. Idaho.
93. Illinois.
94. Indiana.
95. Iowa.
96. Kansas.
97. Kentucky.
98. Louisiana.
99. Maine.
100. Maryland.
101. Massachusetts.
102. Michigan.
103. Minnesota.
104. Mississippi.
105. Missouri.
106. Montana.
107. Nebraska.
108. Nevada.
109. New Hampshire.
110. New Jersey.
111. New Mexico.
112. New York.
113. North Carolina.
114. North Dakota.
115. Ohio.
116. Oklahoma.
117. Oregon.
118. Pennsylvania.
119. Puerto Rico.
120. Rhode Island.
121. South Carolina.
122. South Dakota.
123. Tennessee.
124. Texas.
125. Utah.
126. Vermont.
127. Virginia.
128. Washington.

Sec.

- 129. West Virginia.
- 130. Wisconsin.
- 131. Wyoming.
- 132. Creation and composition of district courts.
- 133. Appointment and number of district judges.
- 134. Tenure and residence of district judges.
- 135. Salaries of district judges.
- 136. Chief judges; precedence of district judges.
- 137. Division of business among district judges.
- 138. Times for holding regular terms.
- 139. Term continued until terminated.
- 140. Adjournment.
- 141. Special terms; places; notice.
- 142. Accommodations at places for holding court.
- 143. Vacant judgeship as affecting proceedings.
- 144. Bias or prejudice of judge.

§ 81. Alabama

Alabama is divided into three judicial districts to be known as the Northern, Middle, and Southern Districts of Alabama.

Northern District

- (a) The Northern District comprises seven divisions.
 - (1) The Northwestern Division comprises the counties of Colbert, Franklin, and Lauderdale.
Court for the Northwestern Division shall be held at Florence.
 - (2) The Northeastern Division comprises the counties of Cullman, Jackson, Lawrence, Limestone, Madison, and Morgan.
Court for the Northeastern Division shall be held at Huntsville.
 - (3) The Southern Division comprises the counties of Blount, Jefferson, and Shelby.
Court for the Southern Division shall be held at Birmingham.
 - (4) The Eastern Division comprises the counties of Calhoun, Clay, Cleburne, and Talladega.
Court for the Eastern Division shall be held at Anniston.
 - (5) The Western Division comprises the counties of Bibb, Greene, Pickens, Sumter, and Tuscaloosa.
Court for the Western Division shall be held at Tuscaloosa.
 - (6) The Middle Division comprises the counties of Cherokee, De Kalb, Etowah, Marshall, and Saint Clair.
Court for the Middle Division shall be held at Gadsden.
 - (7) The Jasper Division comprises the counties of Fayette, Lamar, Marion, Walker, and Winston.
Court for the Jasper Division shall be held at Jasper.